



**UNITED STATES DEPARTMENT OF COMMERCE
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In re Application of
HEED et al.

Application No.: 09/319,222

PCT No.: PCT/SE97/01846

Int. Filing Date: 05 November 1997

Priority Date: 09 December 1996

Attorney Docket No.: 003300-570

For: VIEWING INSTRUMENT

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DECISION ON REQUEST

This is a decision on applicants' "REQUEST FOR CORRECTED OFFICIAL FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 20 October 1999.

On 03 June 1999, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee. No declaration was filed. On 21 July 1999, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration was required.

On 23 August 1999, applicants filed their response to the Notification of Missing Requirements. On 27 September 1999, a Notification of Acceptance was issued identifying the 35 U.S.C. 102(e) and 371(c) date as 23 August 1999. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 03 June 1999.

On 20 October 1999, applicants filed a "REQUEST FOR CORRECTED OFFICIAL FILING RECEIPT." Applicants urge that the Filing Receipt be corrected to indicate a filing date of 23 August 1999, rather than 03 June 1999.

DISCUSSION

37 CFR 1.491 states:

An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the periods set in § 1.494 or 1.495.

35 U.S.C. 102(e) states:

A person shall be entitled to a patent unless...

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of 371(c) of this title before the invention thereof by applicant for patent...

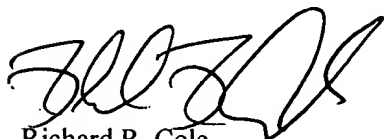
37 CFR 1.491 sets forth that the date of entry into the national stage (i.e. the 371 date) is the date when the requirements of 35 U.S.C. 371(c) have been met. Similarly, 35 U.S.C. 102(e) sets forth that the date under 35 U.S.C. 102(e) is the date upon which applicant meets the requirements of 35 U.S.C. 371(c)(1)(2) and (4).

The actual filing date of the present application is considered to be the international filing date, 05 November 1997. The date which appears on the filing receipt as the "FILING DATE" is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed, and which is often referred to as the date under 35 U.S.C. 102(e). A review of the application file reveals that the declaration was filed with the USPTO on 23 August 1999, the date under 35 U.S.C. 102(e) upon which the requirements set forth in 35 U.S.C. (c) for entry into the national stage were completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 23 August 1999 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) of that date. (Note MPEP section 1893.03(b)). Thus, the filing receipt in this case is in error and must be vacated.

CONCLUSION

Applicants' request for the issuance of a corrected filing receipt indicating a "Filing Date" of 23 August 1999, is GRANTED.

The application will be forwarded to United States Designated/Elected Office for processing in accordance with this decision. Thereafter, it will be returned to Art Unit 2714 for further prosecution.



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